IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE C.N.RAMACHANDRAN NAIR

MONDAY, THE 2ND JULY 2007 / 11TH ASHADHA 1929

WP(C).No. 34229 of 2006(Y)

PETITIONER:

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1. CARMEL MEDICAL SOCIETY, REG.NO.ER 211/91
   ASHOKAPURAM, ALUVA-683 801,
   REPRESENTED BY ITS EXECUTIVE DIRECTOR.

2. CARMEL HOSPITAL, ASHOKAPURAM,
   ALUVA-683 801, REPRESENTED BY ITS
   ADMINISTRATOR.

BY ADV. SRI.K.JAJU BABU
SMT.M.U.VIJAYALAKSHMI

RESPONDENTS:

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1. STATE OF KERALA, REP. BY THE
   SECRETARY TO GOVT., REVENUE DEPARTMENT,
   GOVT. SECRETARIAT, TRIVANDRUM.

2. THE TAHSILDAR, ALUVA.

BY G.P. SRI.C.K.GOVINDAN

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 02/07/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER'S EXHIBITS:

P1: COPY OF THE MEMORANDUM OF ASSOCIATION OF 1ST PETITIONER SOCIETY.

P2: COPY OF THE REGISTRATION CERTIFICATE DT.27.3.91 OF 1ST PETITIONER.

P3: COPY OF THE CERTIFICATE DT.5.4.2002 ISSUED BY THE PRESIDENT, KEESHMAD GRAMA PANCHAYAT.

P4: COPY OF THE CERTIFICATE DT.24.4.2002 ISSUED BY THE ADDL. DISTRICT MAGISTRATE, ERNAKULAM.

P5: COPY OF EXEMPTION CERTIFICATE DT.23.1.1992 ISSUED BY ASST. COMMISSIONER OF INCOME TAX.

P6: COPY OF REPORT DT.19.9.2002 SUBMITTED BY THE TAHSILDAR, ALUVA, THE DISTRICT COLLECTOR.

P7: COPY OF ORDER DT.27.5.2002 ISSUED BY R1.

P8: COPY OF REPRESENTATION DT.23.6.2006 SUBMITTED BY 1ST PETITIONER TO R1.

P9: COPY OF ARGUMENT NOTE DT.28.3.2006 SUBMITTED BY 1ST PETITIONER BEFORE R1.

P10: COPY OF THE INCOME AND EXPENDITURE STATEMENT AND BALANCE SHEET FOR THE YEAR ENDING 31.3.2005 OF THE PETITIONERS.

P11: COPY OF THE ORDER DT.28.8.2006 ISSUED BY R1.

P12: COPY OF REPRESENTATION DT.27.9.2006 SUBMITTED BY 1ST PETITIONER BEFORE THE HON'BLE MINISTER FOR REVENUE, GOVT. OF KERALA.

P13: COPY OF THE ORDER DT.7.11.2006 ISSUED BY R2.

P14: COPY OF REPLY DT.29.11.2006 OF R1.

TRUE COPY

P.A. TO JUDGE

C.N.RAMACHANDRAN NAIR, J.

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W.P.(C) No.34229 of 2006

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Dated this the 2nd day of July, 2007.

JUDGMENT

The petitioner is claiming exemption from building tax in respect of a hospital building on the ground that a charitable institution owns the hospital. So far as hospital building is concerned, exemption is available only if medical relief is rendered free of cost. The petitioner has produced Ext.P4 certificate wherein it is stated that it is a charitable institution and is rendering free medical service to the poor. However, Ext.P10 produced by the petitioner shows that crores of rupees are collected for medical services rendered. The balance sheet produced shows that business is a loss. However, this cannot help the petitioner to get building tax exemption in respect of hospital building. In order to get building tax exemption, medical services should be rendered in the hospital building absolutely free. Even though petitioner has relied on decision of this court in STATE OF KERALA V. ST.GREGORIOUS MEDICAL MISSION (1992(1) KLT 230), the issue is covered against the petitioner by later decision of this court in MEDICAL TRUST HOSPITAL V. STATE OF KERALA (ILR 2004(2)

408) which stands confirmed by decision of Supreme Court. In the circumstances, the W.P. fails and is dismissed.

C.N.RAMACHANDRAN NAIR
Judge

pms